

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,  
Plaintiff

v

RAYMOND GANDIA-ROSA,  
Defendant

and

F.B.I.,  
Garnishee

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Case 3:97-CR 0084-001 (PG)

APPLICATION FOR ORDER AND WRIT OF GARNISHMENT

TO THE HONORABLE COURT:

NOW COMES the United States of America represented by the undersigned attorneys and, pursuant to 28 U.S.C. section 3205 et seq, respectfully sets forth and prays for an Order and Writ as follows:

1. The F.B.I. seized from the defendant Raymond Gandia-Rosa the amount of \$96,080.00 in cash and it was retained as evidence for the trial in the instant case.

2. On June 12, 1998 a Judgment was issued in the instant case against the above named defendant where the Court imposed a Federal Restitution in favor of the U.S. Government, in the amount of \$386,080.00

3. According to said Judgment the restitution was to be paid **immediately** to the U.S. Attorney's Office for transfer to the payee.

4. That even though defendant has been making payments towards the satisfaction of the impositions, the defendant still owes as of today, in principal, the amount of \$364,173.37 , plus interest in the amount of \$145, 550.22 plus penalties in the amount of \$96,520, for a total amount

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owed of \$606,243.59

5. That no less than 30 days has elapsed since demand on the debtor for payment of the above impositions was made and as of today restitution has not been paid in full.

6. That pursuant to 18 U.S.C. 3613 civil remedies may be used to collect criminal judgments.

7. In addition, 18 U.S.C. section 3664(m)(1)(A)(i) and (ii) state:

“(i)An order of restitution may be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title; or

(Ii) by all other available and reasonable means.”

8. The amount of \$96,080.00 is non-exempt and should garnished, as provided by 28 U.S.C. Section 3205 et seq. (See attachment A).

9. That 18 U.S.C. 3613 (a) and (f) state in its pertinent part:

“(a)Enforcement- The United States may enforce a judgment imposing a fine in accordance with the practices and procedures for the enforcement of a civil judgment under Federal law or State law...a judgment imposing a fine may be enforced against all property or rights to property of the person fined...

“(f) Applicability to order fo restitution- In accordance with section 3664(m)(1)(A) of this title, all provisions of this section are available to the United States for the enforcement of an order of restitution.”

10. In addition, 28 U.S.C. section 3013 states:

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“ The Court may at any time on its own initiative or the motion of any interested person, and after such notice as it may require, make an order denying, limiting, conditioning, regulating, extending, or modifying the use of any enforcement procedure under this chapter.”

11. What’s more, pursuant to Rule 69 of the Federal Rules of Civil Procedure and 28 U.S.C. 3205, a court may issue a writ against property (including non exempt disposable earnings) in which the debtor has a [substantial nonexempt] interest and which is in the possession, custody, or control of a person other than the debtor, in order to satisfy the judgment against the debtor.

12. After notice on the defendant, the Court could grant this application so that the non-exempt amount of \$96,080.00, in possession of the F.B.I., be garnished and deposited in the U.S. District Court Clerk’s Office through Court Order and Writ, issued pursuant to Rule 69 of the Federal Rules of Civil Procedure, 18 U.S.C. Sections 3613 and 3664, and 28 U.S.C. sections 3013 and 3205, to be credited towards the satisfaction of the federal restitution imposed against the above defendant.

WHEREFORE the United States of America respectfully requests the issuance of an Order of Garnishment and Writ directing the F.B.I., as Garnishee, to forward to the U.S. District Court Clerk the amount of \$96,080.00 in a check payable to the order of the U.S. District Court to be credited towards the satisfaction of the federal restitution, as provided above.

CERTIFICATE: I hereby certify that on this date I filed this document via CM/ECF, who will automatically notify PARTICIPANT Robert Millan; and further copy was sent, by regular

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mail on this same day to defendant at 81 Leafland Pt., Crystal Oaks, Lecanto, FL 34461;  
Mariangela Tirado-Vales, Esq., P.O. Box 194786, San Juan, PR 00919-478; Carlos Noriega,  
Esq., Banco Cooperativo Plaza, 623 Ponce de Leon Ave. Suite 310, Hato Rey PR 00917; and,  
Maria Sandoval, Esq., P.O. Box 9878, Santurce, PR 00908.

At San Juan, Puerto Rico this 26<sup>th</sup> day of July, 2005.

H.S. GARCIA  
UNITED STATES ATTORNEY

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